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COMMISSION ON HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 47th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 28 February 1995, at 3 p.m.

Chairman: Mr. BIN HITAM (Malaysia)

later: Mr. DOBREV (Bulgaria)
(Vice-Chairman)

CONTENTS

ORGANIZATION OF THE WORK OF THE SESSION (continued),

FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

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GE.95-11419 (E)

CONTENTS (continued)

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS (continued)

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (continued)

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (continued)

The meeting was called to order at 3.15 p.m.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued) (E/CN.4/1995/98)

FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS (agenda item 25) (E/CN.4/1995/98)

1. The CHAIRMAN invited the High Commissioner for Human Rights to introduce his report (E/CN.4/1995/98).

2. Mr. AYALA LASSO (United Nations High Commissioner for Human Rights), introducing his first report (E/CN.4/1995/98), said that it covered the 11 months since he had taken office on 5 April 1994. However, as he had recently submitted a report (A/49/36) to the General Assembly, it should be read against the background of that report. Pursuant to the request contained in paragraph 9 of Commission resolution 1994/95, it contained a section on progress towards the full implementation of the recommendations contained in the Vienna Declaration and Programme of Action. That section had been prepared in the context of the report of the Secretary-General on the follow-up to the World Conference on Human Rights that had been submitted to the General Assembly at its forty-ninth session (A/49/668).

3. The history of the United Nations was to a large extent inseparable from the history of human rights; peace and development were closely linked to progress in human rights. Without respect for human rights, there could be neither lasting peace and security nor lasting economic and social development. More than ever before, that fundamental truth must constitute a basic principle for the international community.

4. The establishment of the post of the High Commissioner for Human Rights was the result of the consensus reached at the World Conference on Human Rights that the sensitive issue of human rights must be approached from a global perspective and global solutions sought. Endowed with political authority by that decision, he had committed himself to carrying out his functions in cooperation with Governments, United Nations organs and specialized agencies, intergovernmental and regional organizations, national institutions, non-governmental organizations (NGOs) and grass-roots organizations, with the sole objective of improving respect for the human rights of every person in the world.

5. In keeping with his mandate and the Vienna Declaration and Programme of Action, he had directed his efforts towards promoting international cooperation in the field of human rights; acting to prevent violations of human rights from becoming serious or widespread; providing advisory services and technical assistance in the field of human rights, particularly to countries in transition to democracy; coordinating human rights activities within the United Nations system and adapting the United Nations human rights machinery to current and future needs; promoting the right to development and the enjoyment of economic, social and cultural rights; combating all forms of discrimination and protecting and promoting the rights of women and children; combating the most atrocious human rights violations, such as torture,

summary and arbitrary executions and involuntary disappearances; promoting human rights education and public information activities; and implementing the Vienna Declaration and Programme of Action.

6. The Vienna Declaration and Programme of Action and the mandate of the High Commissioner were based on a number of common principles, the first being, that respect for human rights was a legitimate concern of the international community. Every person in the world must be able to enjoy all the rights set forth in the United Nations human rights instruments. All human rights were interdependent, and economic, social and cultural rights and the right to development deserved special attention. Democracy, development and human rights were interdependent and mutually reinforcing. International cooperation, which was essential to promote human rights, must be impartial, objective and non-selective. Lastly, the promotion and protection of human rights were first and foremost the responsibility of Governments.

7. His two key concerns since taking office had been, first, emergency situations characterized by massive violations of human rights; and secondly, acting to prevent humanitarian disasters. The measures taken to put an end to the genocide and violence in Rwanda were an example of the first of those concerns, while the extensive programme of cooperation and technical assistance in the field of human rights prepared with the Government of Burundi was an example of the second. Such programmes were the best way of promoting respect for human rights and avoiding a recurrence of tragic events and a deterioration in the situation. In both cases, the presence of human rights officials in the field enabled decisions to be implemented rapidly and effectively.

8. Both types of action required close cooperation among all parts of the international community to provide increased resources. It was important that his Office and the Centre for Human Rights should have rapid access to human rights experts and logistical resources so that they could respond effectively to emergency situations. An increase in contributions to the Voluntary Fund for Technical Cooperation in the Field of Human Rights would make it possible to meet the financial needs of field missions and implement technical-assistance programmes. Technical assistance played a fundamental role in the reconstruction of societies after internal conflicts, which were often sparked off by human rights violations. It made it possible to restore the rule of law and democratic institutions, to train judges, police and armed forces personnel, to strengthen the role of civil society and the non-governmental organizations (NGOs), and to provide education and public information activities. During all his field visits, technical-assistance programmes had always been a subject of exchanges of views and proposals.

9. Reinforcing coordination of activities within the United Nations system and rationalization of the United Nations machinery in the field of human rights were ways of preparing for the future and making all activities to promote and protect those rights more effective and productive. That process was already under way, and it was important to pursue it, adopting a gradual approach, involving systematic exchanges of information, expertise and experience. The implementation of the Vienna Declaration and Programme of Action were to be the subject of consultations in the Administrative Committee on Coordination (ACC). A meeting of special rapporteurs, special

representatives, experts and chairpersons of working groups would be held annually, and the chairpersons of human rights treaty bodies would continue to consider ways of improving coordination, in the framework of their meetings.

10. Bodies established by the covenants and conventions played a key role in implementing the international human rights provisions. It was thus important to achieve the goal of universal ratification of human rights instruments. As fundamental human rights mechanisms, the various treaty bodies must be supported in their work, particularly in their analysis of the reports submitted by States parties and the preparation of their recommendations. States also needed assistance from the advisory services in preparing their reports and cooperation and technical assistance should also be used to enable States to follow up and implement the recommendations of the treaty bodies. It was also important to maintain the quality of the international standards in force and to ensure that United Nations bodies called upon to deal with certain aspects of human rights did not overlook or redefine them.

11. With regard to the special rapporteurs and representatives, experts and working groups established by the Commission, it was deplorable that some States did not cooperate with those mechanisms and procedures, failing to reply to requests for information concerning alleged violations, or refusing to agree to on-the-spot visits by special rapporteurs. In accordance with his mandate and in the context of his country visits, he was endeavouring to establish links between Governments and United Nations human rights mechanisms. Such visits and contacts were intended to facilitate, not to replace, the missions of the special representatives or special rapporteurs.

12. Those were just a few of the numerous tasks that had been entrusted to him. Equally important, however, were the full realization of the right to development and of economic, social and cultural rights; the elimination of racial discrimination and racism; promotion of and respect for the rights of women, children, minorities and indigenous populations; and human rights education and public information.

13. Interest in human rights had been reflected by the establishment or strengthening in many countries of national institutions for the defence and promotion of human rights. Many laws concerning human rights had been drafted or brought into line with international standards. There had been increases in the number of human rights NGOs, the number of ratifications of international human rights treaties, and the number of requests by States for cooperation and technical assistance in the field of human rights.

14. A trend towards solidarity in the field of human rights was thus apparent across frontiers and in all continents. The information received daily concerning violations of human rights bore witness to that trend, and confirmed that the international community must do its utmost to put an end to those violations. It could no longer ignore the poverty and exclusion apparent in rich and poor societies alike, or the horrors of massive violations of human rights. It was of the utmost importance for the credibility and success of all international activities that the challenge of human rights should be met effectively.

15. International cooperation was at the heart of his mandate and his dialogue with Governments to strengthen respect for human rights. That cooperation was reflected in multifarious activities to end human rights violations and to prevent those violations. Whenever necessary, he had recourse to diplomacy to achieve concrete results on specific questions. When the circumstances required, provision of technical assistance was one of the means available to prevent human rights violations. He did not intend to become involved in political problems. Political and human rights issues were indeed often linked, but his activities as High Commissioner focused exclusively on human rights.

16. The success of the activities of the human rights programme would depend on the support it received from the international community and on the broadest possible cooperation from Governments, international organizations and NGOs. An increase in financial and human resources was needed if all the recommendations of the Vienna Declaration and Programme of Action were to be implemented. Without such increased financial support, the new machinery created by consensus could not be fully, effectively and rapidly implemented. He thus once again appealed to States to reflect their political commitment by providing his Office with the financial resources it needed.

17. The CHAIRMAN invited the members of the Commission to put questions to the High Commissioner.

18. Mr. DRISS (Observer for Tunisia) asked what measures were being taken to strengthen the United Nations institutions and to give them fuller possibilities for action.

19. Ms. FURMAN (Observer for Israel) asked what the High Commissioner saw as the role of consensus in the human rights machinery.

20. Mr. SHIDDO (Sudan) asked whether the United Nations had provided the budgetary resources needed to enable the High Commissioner and other human rights bodies to work effectively in the area of coordination and cooperation with States.

21. Mr. AYALA LASSO (United Nations High Commissioner for Human Rights) said that the primary responsibility for policies to protect and promote human rights lay with States. There was thus an ineluctable obligation to promote the development and strengthening of national institutions. International cooperation could play an important role in that regard. The Centre for Human Rights had valuable experience and expertise in the area of cooperation with States interested in implementing activities to strengthen national institutions. A number of projects undertaken had not only proved effective, but had also promoted interest in such cooperation on the part of other States and regions.

22. The prerequisites, however, were the adoption by States of policies to promote and protect human rights, and the availability of the necessary resources. Unfortunately, budgetary resources were very limited, and the Centre for Human Rights often had to resort to the Voluntary Fund.

23. As for the question asked by the Observer for Israel, he said that consensus must be an expression of a community of interests and aspirations, and a means whereby States reflected a common will to act according to the principles and objectives of the Charter and international human rights instruments. Consensus should be used as a mechanism to promote human rights throughout the world, and must not be used as a procedural mechanism for blocking decisions.

24. Mr. HALINEN (Finland) asked whether the High Commissioner was in a position to give further details concerning early-warning mechanisms or arrangements between United Nations agencies and other departments of the United Nations Secretariat, particularly the Department of Humanitarian Affairs.

25. Mrs. FERRARO (United States of America) asked what could be done about States that refused to permit visits by special rapporteurs.

26. Mr. STROHAL (Austria) asked whether, on the basis of the current state of requests from Governments, the High Commissioner could identify areas of priority for increased resources and increased capacities for cooperation. In particular, he would like to know what was the current state of capacities with regard to human rights education, and how those capacities could be strengthened through cooperation with other parts of the United Nations system.

27. Mr. AYALA LASSO (United Nations High Commissioner for Human Rights) said that prevention was both an efficient and a cost-effective means of dealing with potentially explosive human rights situations: hence the importance of an early-warning system. His Office was in touch with the Department of Humanitarian Affairs, the Department of Political Affairs and the Department of Peace-keeping Operations with a view to developing that system. In those contacts, he was stressing that the many reports prepared annually by special rapporteurs and representatives in the framework of the human rights system could be an extremely important component of an early-warning system if analysed from the standpoint of prevention. In the case of Rwanda, for instance, one report by the Special Rapporteur on extrajudicial, summary or arbitrary executions had predicted that a catastrophe was imminent and had indicated the steps that should be taken by the international community to avert it. Unfortunately, that early warning had not been heeded.

28. No mechanism existed in the United Nations system to oblige States to receive special rapporteurs. In that regard, two principles had to be borne in mind: the first was that, under the Charter, it was important to respect the sovereignty of States and to deal with them in a sensitive manner and the second was that States were committed to doing their utmost to promote and respect human rights. If those two principles were heeded, it should be possible to develop a system which would overcome the reluctance of certain States to cooperate with United Nations human rights programmes. In his view, persuasion was always more important, and frequently more productive, than other approaches. He would thus continue to pursue bilateral contacts and to request States to comply with the obligations they had freely assumed as Members of the United Nations and signatories of the Vienna Declaration.

29. Technical cooperation was the most important instrument for assisting States that wished to implement policies and programmes to promote and protect human rights. For instance, the establishment of national institutions was a mechanism that not only helped to promote human rights, but also created a permanent factor for monitoring and cooperating with Governments. The establishment of national institutions should thus be a priority, as should education in human rights in the context of preventive action.

30. In cases where the structure of a State had disintegrated, the problems were of a different order, and included the need to rebuild the confidence of civic society in the administration of justice. His Office had engaged in several programmes to re-establish the institutions of the justice system. Priorities would differ from case to case, and his Office's budget should not only be increased but also rendered more flexible, without rigid earmarking of funds. A separate technical-assistance budget might be useful in that regard.

31. Mr. MEGHLAOUI (Algeria) asked whether, in the context of prevention, thought had been given to the possibility of cooperating with existing regional mechanisms, such as the organ of the Organization of African Unity responsible for the prevention, management and settlement of disputes.

32. Mr. PEREZ NOVOA (Cuba) asked what steps were taken with respect to Governments that refused to implement General Assembly resolutions adopted by a large majority and contravened those resolutions year after year.

33. Mr. van WULFFTEN PALTHE (Netherlands) said he would like to know whether the Centre for Human Rights had prepared a compilation of the recommendations contained in the many reports of special rapporteurs and working groups so as to focus the work of the High Commissioner.

34. Mr. AYALA LASSO (United Nations High Commissioner for Human Rights) said he was well aware of the importance of cooperating with regional bodies. An effective human rights policy did not mean that the Commission or he himself had a monopoly of action. He had given thought to furthering cooperation with Africa and the other regions and had received much helpful material that would assist him in taking action in emergency situations. His work with the African Commission for Human and Peoples' Rights had been very important in that regard.

35. His reply to the question put by the representative of Cuba was the same as that he had given to the representative of the United States of America: he had no means of forcing State compliance. It was to be hoped that growing international awareness would show Governments that it was in their own interest to comply.

36. As for the useful suggestion made by the representative of the Netherlands, action would be taken to implement it, possibly within the context of the activities of the Early-Warning Working Group.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHOD OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

(agenda item 11) (continued) (E/CN.4/1995/5 and Add.1, 42-45, 46 and Add.1, 48, 49, 50 and Add.1-4, 51, 107, 113 and 147; E/CN.4/1995/NGO/5, 8, 22 and 28)

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

(agenda item 21) (continued) (E/CN.4/1995/85, 87 and Add.1, 88, 89 and Add.1 and 90; E/CN.4/1995/NGO/10; A/49/635 and Add.1)

37. Ms. SACKSTEIN (International Abolitionist Federation) said she welcomed the report of the Special Rapporteur on violence against women (E/CN.4/1995/42), which noted an alarming growth of sexual exploitation and trafficking in children, including sex tourism. The campaign to End Child Prostitution in Asian Tourism (ECPAT), in which her organization was actively involved, had demonstrated that political will and the concerted efforts of society in all the countries concerned could be very effective. Unfortunately, it was often forgotten that, once the child prostitute became an adult, she ceased to be the target of well-meaning efforts to alleviate her situation. The exploitation of child prostitution would not exist if prostitution itself were not so widely exploited throughout the world. Her organization therefore supported the Special Rapporteur's call to those States that had not yet done so to ratify or accede to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of others.

38. In addition, it suggested the drafting of an optional protocol to overcome that Convention's shortcomings. The Commission should also adopt without delay the draft programme of action for the prevention of traffic in persons and the exploitation of the prostitution of others (E/CN.4/1994/71), which set useful guidelines for the implementation of the Convention. In that connection her organization reiterated its appeal to the Commission to strengthen the mandate of the Working Group on Contemporary Forms of Slavery.

39. Ms. VIFNARD (International Association of Democratic Lawyers) said that her organization was particularly concerned about State terrorism in many countries. Utilizing the armed forces, States violated a wide range of human rights, perpetrating torture, extrajudicial executions and even genocide.

40. One recurring method was to create paramilitary groups to control the territory and the population by waging a covert war. In the hope that their responsibility would go unnoticed by the international community, many Governments availed themselves of such groups; she had in mind the Patrullas de Autodefensa Civil (PAC) (Civil Self-Defence Patrols) in Guatemala, the Cooperativas Rurales de Seguridad and Asociaciones de Vigilancia Rural (CONVIVIR) (Rural Security Cooperatives and Rural Watch Associations) in Colombia and the Rondas Campesinas (Peasant Patrols) in Peru.

41. One goal was the forced displacement of entire populations, to resettle the areas affected and put them under the control of the paramilitary groups. The system of justice had been placed at the service of State terrorism through the establishment of special courts in which judges, witnesses and the evidence remained secret.

42. Vague criminal laws had been enacted that had made criminal acts of the exercise of such legitimate rights as freedom of association, freedom to organize and freedom of assembly. Political and trade-union leaders had been placed in preventive detention. The setting up of legal mechanisms, such as military criminal courts, ensured that torture, forced disappearances and murder went unpunished. The practices she had mentioned had generated an atmosphere in which citizens were afraid to make use of their right to express themselves freely.

Statements in exercise of the right of reply

43. Mr. OLIVERO (Observer for Guatemala) said that a number of unfounded, false and unobjective remarks had been made by NGO representatives about his country. Any armed conflict presupposed two sides, and, in the case of Guatemala, part of the responsibility must also be borne by the Unidad Revolucionaria Nacional Guatemalteca (URNG) which, despite its perpetration of numerous human rights violations, had never been mentioned in the Commission. His Government did not seek a confrontation; on the contrary, it called upon opposition groups to engage in a dialogue in a spirit of genuine brotherhood and peace, because the people of his country were tired of so many years of conflict and polarization. His delegation was confident that differences could be resolved through negotiations rather than violence.

44. Mr. GÜLDERE (Observer for Turkey) said that he was inclined to wonder about the sanity of the person who, earlier in the discussions, had referred to alleged human rights violations suffered by Kurdish women in Turkey. The malicious allegations concocted by the representative of the Greek Cypriot administration in southern Cyprus grossly distorted reality. Turkey's intervention as a guarantor power under the Zurich Treaty founding the Republic of Cyprus had in fact been designed to prevent Greek Cypriots from continuing to rape, torture and murder Turkish Cypriots and annihilate the Turkish community. That intervention had been successful, and the bloodshed on the island had stopped.

45. Mrs. MARKIDES (Observer for Cyprus) said that regardless of what Turkey decided to call its invasion, it had used military force - in violation of the United Nations Charter - against an independent State whose territorial

integrity it was committed to respect in accordance with the Treaty of Guarantee. The aggressor had, indeed, been successful: Turkey had invaded Cyprus, raping and killing innocent civilians in cold blood, had expelled the indigenous population, brought in Turkish settlers and desecrated places of worship.

46. The presence of 35,000 Turkish soldiers and of Turkish settlers constituted a constant threat to the Greek and the Turkish Cypriot communities alike. The European Commission of Human Rights, by 12 votes to 1 (that of Turkey), had found that the numerous cases of rape and mistreatment must be imputed to the Turkish forces.

47. Mr. GÜLDERE (Observer for Turkey) said that the allegations made by the representative of the Greek Cypriot administration to the effect that the European Commission of Human Rights had found Turkey responsible for certain acts was sheer fabrication. In not a single line of its reports had the European Commission established Turkey's involvement in any act committed on the island.

48. As for the politically motivated applications filed with the European Commission by Greek Cypriots as part of a defamation campaign, they had all been rejected, with one minor exception. In fact, the European Commission had stated in its report that it saw no basis for imputing such acts to Turkey.

49. The massive human rights violations committed on the island since 1963 had been directed against the Turkish Cypriots. Even as he spoke, the remaining Turkish Cypriots were being systematically harassed, beaten, tortured, forced out of their homes and deported northward at gunpoint.

50. Mrs. MARKIDES (Observer for Cyprus) said that the observer for Turkey should have been called to order for not addressing her delegation by its proper name. She represented the Government of the Republic of Cyprus, the only recognized Government on the island. As to the assertion that Turkey had not been found guilty by the European Commission of Human Rights, she referred to the two reports of the European Commission adopted in July 1976 and October 1983. With regard to the allegations of the representative of Turkey of massive violations committed against Turkish Cypriots before 1974, she noted that even prominent Turkish Cypriots admitted that the Turkish community was being wiped out in the occupied part of Cyprus. Turkey's human rights record was a shocking one.

51. Mr. GONZALEZ (Colombia) said that the representative of an NGO had alleged that his Government had sought to wage a "covert war" by setting up Cooperativas Rurales de Seguridad (Rural Security Cooperatives). In actual fact, the proposal to establish such bodies had been brought up in democratic discussions and, after a public debate in which all political tendencies had participated, the idea had been dropped. Instead, it had been decided to create Asociaciones de Vigilancia Rural (Rural Watch Associations), which were armed only with walkie-talkies, their goal being to protect peasants from kidnappings and other crimes being committed in the Colombian countryside. It was therefore false to say that his Government had set up a paramilitary organization.

52. The CHAIRMAN said that the Commission had concluded its consideration of agenda items 11 and 21.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(agenda item 12) (continued) (E/CN.4/1995/4, 7 and Corr.1, 10, 12, 37, 52, 53, 54 and Corr.1, 55-60, 61 and Add.1, 62-64, 65 and Corr.1, 66, 67 and Corr.1, 68-72, 108, 111, 117, 118, 126-128, 131, 133, 136, 138-140, 142-145, 148, 150, 152 and 153; E/CN.4/1995/NGO/3, 16, 19-21, 24, 27, 29, 31, 33, 38 and 39; A/49/394, 508, 513, 514 and Add.1-2, 539, 544, 594 and Add.1, A/49/641 - S/1994/1252, A/49/650 and 651)

53. Mr. AL-DURI (Observer for Iraq) said that the report of the Special Rapporteur on the situation of human rights in Iraq (E/CN.4/1995/56) showed how the human rights issue could be exploited for political purposes, to interfere in the internal affairs of States, to inflame religious and ethnic conflicts and to isolate those States which followed an independent course in accordance with their own national will. The biased statements of the Special Rapporteur demonstrated that he was carrying out a scheme assigned to him by a certain super-Power which had been waging a campaign against Iraq and maintaining the embargo in the name of the United Nations.

54. Disregarding normal diplomatic tact, the Special Rapporteur deliberately referred to his Government as the "Baath regime" and made impolite references to the President of the Republic of Iraq. He also accused Iraq of non-compliance with the resolutions of the Security Council, blaming it for the grave impact of the economic sanctions.

55. It had become clear that only one or two super-Powers still insisted on maintaining the embargo, regardless of its tragic effects. It was well known that Iraq had already fulfilled all its obligations pursuant to the relevant Security Council resolutions. A consensus had almost been reached on putting an end to the embargo, but the Special Rapporteur and his masters were demanding its continuation. The Special Rapporteur had again called for an immediate halt to Iraq's irrigation projects in the southern area, even though those projects helped to ensure the food supply of the people of Iraq.

56. His Government was still held responsible for the situation in northern Iraq, although that region was not under its control. Since the intervention of the coalition forces, bloody conflicts and chaos had prevailed in the region and it had become an open arena for faction-fighting and military intervention by neighbouring countries.

57. His Government did not deny that enforced and involuntary disappearances had occurred in his country. The authorities had been unable to prevent those incidents, which were an inevitable consequence of the abnormal circumstances in which Iraq had found itself: the war with Iran, the aggression against his country and the subsequent riots.

58. The allegations of violations of the rights of minorities in Iraq were based not on human rights considerations but on political motives arising from the conflict between national sovereignty and the economic and political interests of certain Western countries. His Government had reported on its handling of the question of minorities to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its most recent session.

59. In a detestable attempt to distort the facts, certain groups and individuals, including the Special Rapporteur, considered that the failure of the Iraqi Government to comply with the provisions of Security Council resolutions 706 (1991) and 712 (1991), which presented the possibility of a United Nations-supervised sale of oil, was tantamount to a refusal to alleviate the difficult food and health situation of the Iraqi people. If their concern was so acute, why were those groups not urging Governments to release frozen Iraqi assets so that his country could meet its basic needs. Such a measure was not in violation of the relevant resolutions; however, the countries holding those assets wished to keep them for their own political ends.

60. Implementation of Security Council resolutions 706 (1991) and 712 (1991) would have violated his country's sovereignty, interfered in its internal affairs and fragmented its people along ethnic and sectarian lines. Western oil and banking experts conceded that the arrangements provided for under the resolutions were not standard procedure in their field. In discussions with United Nations representatives, his Government had made efforts to reach an acceptable compromise on the issue but those efforts had failed owing to pressures exerted by the United States of America.

61. His country had been charged with carrying out an internal economic embargo. Such accusations were baseless. Rationing quotas applied to families throughout Iraq and the apportioned shares were distributed in all regions. Nevertheless, his Government could not ensure the supply to Kurdish families because the resources were distributed by the factions controlling the northern region.

62. The Special Rapporteur had paid particular attention to the cases of missing Kuwaitis. His approach had been influenced by political considerations and had little to do with human rights concerns. The Security Council had authorized the International Committee of the Red Cross (ICRC) to examine that issue and a tripartite committee had been established for that purpose. The Special Rapporteur had apparently ignored those proceedings.

63. Mr. GROTH (Special Rapporteur on the situation of human rights in Cuba), introducing his report (E/CN.4/1995/52), said that the situation in Cuba, which had changed very little over the past two years, continued to be marked by an absence of freedom of expression and association and by discrimination on political grounds, practices which were supported by specific legislation.

64. Persons who peacefully manifested their disagreement with Government policy, either as individuals or in groups, or who engaged in political activity, continued to be subjected to harassment, accusations, disciplinary measures and prison sentences. Although those groups were determined to use only peaceful means to proclaim their grievances, the authorities considered

their activities to be illegal. Because of the pressure placed on those groups, their membership had declined and their sphere of action had become limited.

65. The report listed various cases of individuals who had been tried for politically-related crimes in 1993 and 1994. In addition, he had received a partial list, prepared by non-governmental organizations in Cuba, of more than 1,000 persons serving sentences for the same reason.

66. He had also received reports which indicated that, during 1994 and the final months of 1993, the Cuban Government had frequently tried individuals on the grounds of "dangerousness", which had subsequently led to prison sentences of up to four years. The summary nature of the proceedings suggested that the accused had hardly had time to contact an attorney or prepare a defence. In many cases, groups of persons, rather than individuals, were arrested and tried, thus further reducing procedural safeguards. Legislation relating to "dangerousness" was used not only to control common crime, which had risen, possibly as a result of the economic crisis, but also against individuals suspected of activities that ran counter to the official ideology. The fate of those imprisoned and the fact that such cases continued to occur regularly was a matter of concern.

67. He had continued to receive reports of harassments, temporary detention, loss of employment and other types of reprisals carried out by security bodies for ideological reasons. In September and October 1994 alone, at least 51 human rights activists and opponents had been subjected to police harassment.

68. In recent years, Cuba had simplified the requirements for obtaining an exit permit, whether temporary or permanent. Nevertheless, the authorities could deny a permit request at any time and decisions were not subject to appeal. For political and, especially in recent years, economic reasons, many Cubans had manifested a desire to leave their country to live elsewhere, preferably in the United States of America. The difficulties involved in emigrating legally and the good chances for entry into the United States, owing to the legislation in force in that country, had resulted in a steady stream of persons leaving Cuba and heading for the United States, risking their lives in makeshift craft and facing reprisals from their own Government.

69. That phenomenon had reached its apex in August 1994, when the number of persons attempting to leave the country had increased dramatically. As a result, the Cuban Government had declared that it would not try to prevent such departures. From a human rights standpoint, that decision could only be viewed as positive. Nevertheless, it had been dictated more by political expediency than by humanitarian motives and had not been accompanied by a change in the laws to decriminalize illegal exit. Indeed, following the conclusion of new immigration agreements with the United States, the ban on leaving the country had reverted to the status that had prevailed prior to the crisis. Meanwhile, more than 30,000 Cubans were still living at the Guantánamo military base, without a precise legal status. He called upon the United States Government to take steps to resolve that situation.

70. The Cuban Government had taken some significant steps in 1994 to remedy the serious economic crisis of recent years, which had caused a sharp drop in the standard of living and had jeopardized the enjoyment of economic and social rights. Measures adopted for the establishment of agricultural and industrial markets governed by the laws of supply and demand were a positive, although hardly adequate, step.

71. He appreciated the fact that the Cuban Government had invited the High Commissioner for Human Rights to visit the country in November 1994. That visit should be regarded as a point of departure for full cooperation by the Government of Cuba with all the mechanisms of the Commission on Human Rights, including the Special Rapporteur.

72. Mr. PEREZ NOVOA (Cuba) said that the purpose of the Special Rapporteur's report was simply to serve as a springboard for the Government of the United States of America to impose, once again, as an extension of its aggressive policy towards his country, a resolution on the Commission on Human Rights. Such an exercise was discriminatory, selective and unjust. Far from promoting a genuine climate of cooperation between States, it was designed to gratify the whims of those who considered themselves to be the rulers of the world.

73. There was no doubt as to his Government's transparent and systematic participation in the United Nations system, in particular in the sphere of human rights, and its fulfilment of its obligations under various human rights instruments. Cuba had been the first country in Latin America to extend an invitation to the High Commissioner for Human Rights who, following his visit, had acknowledged the cooperation of the Government.

74. To regard that visit as a point of departure, for full - and not merely superficial - cooperation, as the Special Rapporteur had stated in his report, was to reveal a serious lack of understanding of his Government's firm and sustained commitment to the United Nations human rights system. Classifying its actions as superficial was, in itself, a superficial act.

75. The report did not contain a single reference to cases of torture, political assassinations, massacres, enforced disappearances or any of the other categories of massive, systematic and flagrant violations of human rights which would justify the inclusion of his country under agenda item 12 or the appointment of a Special Rapporteur.

76. The report questioned the legitimacy and viability of the Cuban system, focused attention on one category of rights and neglected others and provided a partial and out-of-context analysis of particular situations, based on information supplied by certain organizations. According to the report, the President of the Cuban Commission for Human Rights and National Reconciliation had been placed under six-months' house arrest beginning in July 1994. If that were so, he wondered how it had been possible for that same individual to meet the High Commissioner for Human Rights in Havana in November 1994.

77. The Special Rapporteur, having stated that it was not his business to take a position regarding the phenomenon of departure by sea and the consequences for those who attempted it, had then devoted several paragraphs

of his report to that topic. However, he had failed to mention the acts of piracy, kidnapping and terrorism committed against Cuban officials responsible for enforcing the law. He had not mentioned, either, the failure of the United States to comply with the earlier immigration agreements signed with Cuba nor the accords signed in September 1994 between the two countries, in which he would have found the reasons for the Cuban authorities' recent position on illegal exits.

78. A Cuban writer, interviewed by the High Commissioner for Human Rights, had stated that, despite the aggressive policy of the United States towards his country and its difficult economic situation, Cuba was moving towards dialogue, exchange of ideas and greater openness in the cultural domain. That was in sharp contrast to other countries, such as the United States, which in periods of economic crisis had witnessed a rise in repression and dogmatism.

79. In his report, the Special Rapporteur stated that excessive pressure by the Cuban authorities had resulted in a decrease in the membership of human rights groups. He also mentioned that new trade unions, considered illegal by the authorities, were being established and that their membership was growing, although the members were subject to harassment. On the basis of that information, the conclusion could be drawn that the result of pressure and harassment had, in one case, been a decrease in membership and, in another case, an increase in membership.

80. The section of the report on the enjoyment of economic, social and cultural rights was perhaps the most contradictory. The Special Rapporteur noted the efforts made by the Cuban Government over the last three decades to create conditions in which the majority of the population could enjoy economic and social rights. At the same time he held the Cuban Government responsible for the current situation and made recommendations similar to the usual formulas offered by the major international financial institutions, which had hardly had the effect of promoting economic and social rights in other countries.

81. Representatives of his Government had discussed the current economic situation in Cuba in various forums and in the press and had never tried to hide the difficulties encountered or the measures adopted to remedy them. After the sudden disappearance of 80 per cent of its markets and 70 per cent of its imports, and with the imposition of an economic blockade and other measures, he wondered what other developing country would have struggled to maintain the benefits achieved for its people under a particular socio-economic system and to protect them from economic remedies that might reverse the economic situation but at their expense.

82. It did not fall within the competence of a special rapporteur to recommend the implementation of a particular socio-economic system, and Cuba certainly had no need of recommendations in that regard. Its achievements in the field of human rights were the result not of recommendations but of the efforts made by his Government. The steps it had taken and would continue to take to rectify the current situation and to achieve its development goals would be the result of a decision by a valiant people which had been capable of achieving liberty, independence and sovereignty and which was not intimidated by resolutions, reports or unjust embargoes.

83. The principal contradiction of the report, however, arose from the basic flaw of the appointment of a Special Rapporteur for a country which had an impeccable record in the area of human rights and which honoured its international commitments.

84. Mr. Dobrev (Bulgaria), Vice-Chairman, took the Chair.

85. Mr. BIRO (Special Rapporteur on the situation of human rights in the Sudan), introducing his report (E/CN.4/1995/58), said that there had been no improvement since the submission of his previous report. Indeed, in some respects, the situation had deteriorated due to the intensification of the aerial bombardment of civilian targets by the Government of the Sudan.

86. In the absence of any response to his request for permission to visit the country, he had undertaken a field mission to Kenya, Uganda and Egypt during the first half of August 1994. In the course of that mission, he had met the representatives of international humanitarian organizations, including United Nations agencies, providing assistance to southern Sudan and the representatives of organizations monitoring the human rights situation in the country. He had also met representatives of the parties to the armed conflict other than the Government of Sudan.

87. He had collected testimonies from southern Sudanese refugees in northern Uganda and from Sudanese citizens who had personally witnessed or suffered human rights abuses by government agents in northern Sudan. Numerous reports from United Nations humanitarian agencies working in the southern Sudan had also described in detail a consistent pattern of abuse of international humanitarian law by all parties to the conflict. Those reports were being sent to the competent authorities of the Government of the Sudan on an official and regular basis.

88. The most defenceless victims of the ruthless and arbitrary violations of human rights throughout the country were women and children. Particularly in the north, displaced women and children were victims of the most atrocious practices by government agencies. Nubans were the most prominent of such victims and reports of the abduction of children from the Nuba Mountains had continued to arrive during the previous year. According to UNICEF estimates, nearly 500,000 minors in the south were in danger because of the war. Moreover, women and children were the first to be affected by any shortages arising from the forced suspension of humanitarian assistance.

89. The passivity of the Government of the Sudan in the face of reports on the situation of children kept in special camps in the north was unacceptable. In an article criticizing a UNICEF booklet on children affected by the war in the Sudan, the Secretary-General of the National Population Committee of Sudan had asserted that relief agencies were torturing Sudanese children for no other reason than the need to have a living tragedy to enable them to raise money and increase their profits. The article had concluded by appealing to UNICEF to steer itself away from such cynical methods of fund-raising.

90. Grave violations of human rights, including extrajudicial killings, systematic torture and widespread arbitrary arrests of suspected political opponents, were committed not only by government agents but also by members of

the various parties to the conflict in the south. While women and children continued to be among the most vulnerable groups, all categories of the population were affected by those abuses. The situation therefore called for intensified monitoring by the international community.

91. One of the important ideas developed in the statement by the head of the delegation of the Sudan to the Commission earlier in its session (E/CN.4/1995/SR.38) was that there was no contradiction between beliefs and religions on the one hand and international human rights instruments on the other. It would be entirely outside the scope of his own mandate to discuss any theological issues, including questions related to Islamic Shariah. His analysis had therefore focused on a comparison between the international human rights instruments to which the Sudan was a party and the specific pieces of State legislation which Sudanese citizens and authorities were required to observe.

92. Mr. SHIDDO (Sudan) said that countries which were brought to the dock before the Commission were usually those which had elicited the wrath of the major Powers or which did not fit into their strategies for a new international order. The Commission had become totally politicized and had developed a slanted focus in its consideration of the human rights situation in the world. Attempts to make the Commission more democratic and responsive to the point of view of the smaller countries had been frustrated, and it continued to function in a manner characterized by selectivity and double standards.

93. Thus, in the case of the report of the Special Rapporteur on the situation of human rights in the Sudan (E/CN.4/1995/58), the Special Rapporteur appeared to have become the spokesman of self-exiled opposition groups and factions of the rebel movement. Because of his participation in conferences hosted by personalities hostile to the Government, the Sudan had had no alternative but to deny him access to its territory and to ask for his replacement. The Special Rapporteur's behaviour, which was in violation of the neutrality he should display as a United Nations official, had been brought to the attention of the Commission but to no avail, as various Governments continued to lend him their support. If the existing Special Rapporteur were removed, the Government of Sudan pledged itself to cooperate with his replacement.

94. With regard to the contents of the report, the Special Rapporteur had continued in the hostile vein of his previous reports. His favourite method was to illustrate his arguments with a few examples relating to the arrest of one or two individuals and to draw an often sweeping and alarming conclusion, some of which had been refuted by the conclusions of other United Nations organs. References to the detention of individuals failed to include any mention of the charges, or to the fact that the individuals had been later released.

95. In his references to women's rights, the Special Rapporteur concentrated on a few cases in which women had been convicted for brewing local liquors or on the equality of men and women in matters relating to civil capacity. He, however, ignored the fact that women in the Sudan enjoyed their full rights as

citizens in all walks of national endeavour. Indeed, they formed a majority of civil servants in some ministries and worked as doctors, lawyers, judges, ministers, and State governors.

96. The most malicious part of the report was the Special Rapporteur's new allegations about discrimination against the Beja and Rashaida tribes of the eastern Sudan. In view of the recent developments in Sudanese-Eritrean relations, there was no alternative but to conclude that the Special Rapporteur was openly seeking to incite disaffection and unrest in a part of the country which had been and continued to be in the mainstream of the social, political and economic life of the northern Sudan. Such an unfortunate development could not but strengthen his delegation's conviction that the Commission was drifting into troubled waters by permitting its deliberations and projections to be politicized.

97. For the reasons he had stated, his Government firmly and conclusively rejected the report. It was worthless and, as such, unworthy of any response from the Commission. It was clear that, in order to continue his assignment, the Special Rapporteur, needed a human rights situation in the Sudan and, if none existed, he would have to create it.

98. Some countries might, for their own political interest, find it appropriate to support the recommendations contained in the report. The Sudan would never accept the appointment of the monitors whose introduction had been proposed by the Special Rapporteur, since the situation in the country did not warrant it. Their mere presence would reflect negatively on the democratization currently in progress and would disrupt both the peace process and the process of federalization.

99. Mr. CELLI (Special Rapporteur on the situation of human rights in Haiti), introducing his report (E/CN.4/1995/59), said that the international community had for the past year been closely monitoring the human rights situation in Haiti. Until the arrival of the Multinational Forces (MNF) on 19 September 1994, military, paramilitary and police forces, together with the civilians in their employ, had committed all kinds of abuses against human rights and fundamental freedoms in Haiti. In addition to extrajudicial executions, enforced disappearances and arbitrary detentions, there had been widespread raping of women, including minors and pregnant women.

100. The international community had maintained its economic and other sanctions against the de facto Haitian regime up to 26 September 1994, when the sanctions had been removed at the request of President Aristide. While causing problems to the de facto regime and thus contributing to the solution of the crisis, the sanctions had not been enough to force the military leadership to respect the commitments it had entered into and relinquish power. In its resolution 940 (1994), the Security Council had therefore authorized additional measures and an invasion of the country was imminent when the military regime had finally agreed to negotiate a political settlement.

101. After the departure of the military leadership and the "resignation" of the de facto regime, the situation in Haiti had begun to normalize following the return of President Aristide and the appointment and ratification of the

new Prime Minister. The new climate of relative peace and hope characterized by a notable decline in human rights violations was due to a combination of factors including: the presence of the Multinational Forces, the activity of police monitors, the reduction in the size of the Haitian Armed Forces and the dismantling and partial disarmament of paramilitary groups, the abolition of section chiefs, the return of the International Civilian Mission to Haiti (MICIVIH), the restoration of the legitimate Government and the constant appeals by President Aristide to his supporters to respect human rights and promote reconciliation.

102. Despite those achievements, however, a number of situations still gave cause for concern: the problem of delinquency, which was linked to unemployment and the high cost of living; the activities of former members of paramilitary groups and unrecovered weapons; violence and human rights abuses in rural areas, which could be attributed to the uncertainty regarding land ownership, the presence and power of the former section chiefs, who continued to terrorize the population in some remote areas; the absence of government and police authorities; the limited progress made in dismantling and disarming paramilitary units; the presence within the Armed Forces and civil service of persons who had committed serious human rights abuses during the de facto military Government; the virtual paralysis of the justice system owing to technical and material difficulties; the deplorable state of the prison system; and the delay in implementing assistance and cooperation programmes in areas of urgent need, such as water supply, sewage disposal, electricity, employment and health services.

103. Serious efforts were nevertheless being made to establish and develop essential institutions. Work had begun on the creation of a new police force to replace the interim police, a specially designated commission had begun work on the modernization of the Haitian Armed Forces, the decree providing for the establishment of a commission on truth and justice had been promulgated, an electoral board had been appointed to oversee presidential, parliamentary and local government elections, the old institution of section chiefs had been abolished and paramilitary groups had been declared illegal.

104. He had made a number of recommendations to the Commission. Firstly, the Commission should condemn the systematic human rights violations committed against Haitian citizens during the de facto military regime and welcome the decision of the legitimate Government to establish a commission on truth and justice charged with investigating crimes, determining individual responsibility and recommending just reparations to the victims.

105. The Commission should also express its satisfaction at the action taken by the international community to find a solution to the problem in Haiti. It should take note of the effective cooperation between the various organs of the United Nations and the inter-American system and between those bodies and the Governments of democratic countries in the Americas and elsewhere.

106. The Commission should acknowledge the valuable work of all the parties that had contributed to the restoration of the legal authority in Haiti and reaffirm that the political changes that had taken place since the end of the

de facto military regime were only the beginning of a process which must be consolidated by introducing the structural and cultural changes necessary to promote and protect human rights.

107. Lastly, the Commission should request the High Commissioner for Human Rights to ensure coordination among all the human rights bodies concerned with Haiti. It should also closely monitor political developments in Haiti, and particularly the parliamentary and presidential elections to be held later in 1995.

108. Given the many problems which Haiti still faced in consolidating its democracy and ensuring respect for human rights, he recommended that the Commission should continue to consider the situation of human rights in Haiti under item 12 of its agenda.

The meeting rose at 6.10 p.m.